THE INSURANCE CODE OF 1956 (EXCERPT)
Act 218 of 1956

500.3440 Insurance with other insurers; other benefits.

Sec. 3440. (1) An insurer may include in an individual disability insurance policy a provision as follows:

INSURANCE WITH OTHER INSURERS: If this insurer has not been given written notice before the occurrence or commencement of loss that the insured under this policy has other valid coverage, not with this insurer, and that other valid coverage provides benefits for the same loss on other than an expense incurred basis, the only liability for the benefits under this policy is for the proportion of the indemnities otherwise provided under this policy for the loss as the like indemnities of which the insurer had notice, including the indemnities under this policy, bear to the total amount of all like indemnities for the loss, and for the return of the portion of the premium paid that exceeds the pro rata portion for the indemnities determined under this provision.

(2) If the policy provision described in subsection (1) is included in an individual policy of disability insurance that also contains the policy provision described in section 3438, the insurer shall add to the caption of the policy provision the phrase **"—OTHER BENEFITS"**. The insurer may, at its option, include in this provision a definition of "other valid coverage", approved as to form by the director, which definition must be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any province of Canada, and to any other coverage the inclusion of which is approved by the director. In the absence of a definition, the term must not include group insurance or benefits provided by union welfare plans or by employer or employee benefit organizations. For the purpose of applying the policy provision with respect to any insured, any amount of benefit provided for the insured under any compulsory benefit statute, including worker's disability compensation or employer's liability statute, whether provided by a governmental agency or other entity, must in all cases be considered to be "other valid coverage" of which the insurer has had notice, unless the policy contains provisions for the reduction of benefits otherwise payable under the policy by the amount of income from other sources that the insured or the insured's dependents are qualified to receive because of the insured's age or disability from worker's disability compensation or federal social security, if at the time the policy was issued, the premium had been appropriately reduced to reflect the anticipated reduction in benefits. In applying the policy provision, an insurer shall not include third party liability coverage as other valid coverage.

History: 1956, Act 218, Eff. Jan. 1, 1957;—Am. 1987, Act 52, Imd. Eff. June 22, 1987;—Am. 2016, Act 276, Imd. Eff. July 1, 2016.

Compiler's note: Section 2 of Act 52 of 1987 provides:

"The amendments to sections 2236, 2242, 3440, 3606, 3610, and 4430 of Act No. 218 of the Public Acts of 1956, being sections 500.2236, 500.2242, 500.3440, 500.3606, 500.3610, and 500.4430 of the Michigan Compiled Laws, pursuant to this amendatory act apply to all insurance policies issued on or after January 1, 1957 that were either approved by the commissioner on or after January 1, 1957 or subject to an order of the commissioner exempting policies from filing on or after September 1, 1968. The amendments to sections 2236, 2242, 3440, 3606, 3610, and 4430 of Act No. 218 of the Public Acts of 1956, being sections 500.2236, 500.2242, 500.3440, 500.3606, 500.3610, and 500.4430 of the Michigan Compiled Laws, pursuant to this amendatory act are intended to codify and approve long-standing administrative and commercial practice taken and approved by the commissioner pursuant to his or her legal authority. This amendatory act shall serve to cure and clarify any misinterpretation of the operation of such sections since the effective date of their original enactment. It is the intent of this amendatory act to rectify the misconstruction of the insurance code of 1956 by the court of appeals in Bill v Northwestern National Life Insurance Company 143 Mich App 766 with respect to the power of the insurance commissioner to exempt certain insurance documents from filing requirements and the offsetting of social security benefits against disability income insurance benefits. This amendatory act does not affect the relationship between disability insurance benefits and personal protection insurance benefits as provided in Federal Kemper v Health Insurance Administration Inc. 424 Mich 537."

Popular name: Act 218

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